



6560-50-P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA-R10-OAR-2017-0597; FRL-9973-22-Region 10]

Air Plan Approval; AK: Fine Particulate Matter Infrastructure Requirements

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: Whenever a new or revised National Ambient Air Quality Standard (NAAQS) is promulgated, the Clean Air Act (CAA) requires states to submit a plan for the implementation, maintenance, and enforcement of the standard, commonly referred to as infrastructure requirements. The Environmental Protection Agency (EPA) is proposing to approve the Alaska State Implementation Plan (SIP) as meeting specific infrastructure requirements for the fine particulate matter (PM_{2.5}) NAAQS.

DATES: Comments must be received on or before **[insert date 30 days after date of publication in the Federal Register]**.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA-R10-OAR-2017-0597, at <https://www.regulations.gov>. Follow the online instructions for submitting comments. Once submitted, comments cannot be edited or removed from *regulations.gov*. The EPA may publish any comment received to its public docket. Do not submit electronically any information you consider to be Confidential Business Information (CBI), or other information the disclosure of which is restricted by statute. Multimedia submissions (audio, video, etc.) must be accompanied

by a written comment. The written comment is considered the official comment and should include discussion of all points you wish to make. The EPA will generally not consider comments or comment contents located outside of the primary submission (i.e. on the web, cloud, or other file sharing system). For additional submission methods, the full EPA public comment policy, information about CBI or multimedia submissions, and general guidance on making effective comments, please visit <https://www.epa.gov/dockets/commenting-epa-dockets>.

FOR FURTHER INFORMATION, CONTACT: Kristin Hall, Air Planning Unit, Office of Air and Waste (OAW-150), Environmental Protection Agency – Region 10, 1200 Sixth Ave, Seattle, WA 98101; telephone number: (206) 553-6357; email address: hall.kristin@epa.gov.

SUPPLEMENTARY INFORMATION: Throughout this document wherever “we,” “us,” or “our” is used, it is intended to refer to the EPA.

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I. Background

On July 18, 1997, the EPA promulgated a new 24-hour and a new annual NAAQS for fine particulate matter (PM_{2.5}) (62 FR 38652). Subsequently, on October 17, 2006, the EPA tightened the 24-hour PM_{2.5} NAAQS from 65 micrograms per cubic meter (µg/m³) to 35 µg/m³, and retained the annual PM_{2.5} standard at 15 µg/m³ (71 FR 61144). More recently, on December

14, 2012, the EPA lowered the level of the primary annual $\text{PM}_{2.5}$ NAAQS to $12 \mu\text{g}/\text{m}^3$ and retained the remaining particulate matter standards (January 15, 2013, 78 FR 3086).

After a new or revised NAAQS is promulgated, the CAA requires states to submit infrastructure SIPs to meet basic elements required to implement, maintain, and enforce the new or revised NAAQS. On March 10, 2016, the Alaska Department of Environmental Conservation (ADEC) submitted a SIP revision to meet the 2012 $\text{PM}_{2.5}$ NAAQS infrastructure requirements, in addition to outstanding 1997 and 2006 $\text{PM}_{2.5}$ NAAQS infrastructure elements not included in prior submissions. Specifically, Alaska's March 10, 2016, submission addresses the following infrastructure elements:

- CAA section 110(a)(2)(A) through (M) for the 2012 $\text{PM}_{2.5}$ NAAQS;
- CAA section 110(a)(2)(G) for the 2006 $\text{PM}_{2.5}$ NAAQS; and
- CAA section 110(a)(2)(G) for the 1997 $\text{PM}_{2.5}$ NAAQS.

We note that Alaska's March 10, 2016, submission addresses other program areas, such as regional haze, transportation conformity, and nonattainment planning. In this action, we are proposing to approve the portion of the March 10, 2016, submission related to $\text{PM}_{2.5}$ infrastructure requirements only.¹ We previously approved other portions of the submission on August 28, 2017 (82 FR 40712) and September 8, 2017 (82 FR 42457), and we intend to address the remainder of the submission in separate, future actions.

II. Infrastructure Elements

¹ Consistent with past practice, the EPA intends to act on requirements related to the CAA section 110(a)(2)(D)(i)(I) interstate transport provisions in a separate action. *See* 79 FR 45103 (August 4, 2014).

CAA section 110(a)(1) provides the procedure and timing for SIP submissions after a new or revised NAAQS is promulgated. CAA section 110(a)(2) lists specific elements that states must meet related to a newly established or revised NAAQS. The EPA has issued guidance to help states address these requirements, most recently on September 13, 2013 (2013 Guidance).²

The requirements, with their corresponding CAA subsection, are listed below:

- 110(a)(2)(A): Emission limits and other control measures.
- 110(a)(2)(B): Ambient air quality monitoring/data system.
- 110(a)(2)(C): Program for enforcement of control measures.
- 110(a)(2)(D): Interstate transport.
- 110(a)(2)(E): Adequate resources.
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- 110(a)(2)(I): Areas designated nonattainment and applicable requirements of part D.
- 110(a)(2)(J): Consultation with government officials; public notification; and Prevention of Significant Deterioration (PSD) and visibility protection.
- 110(a)(2)(K): Air quality modeling/data.
- 110(a)(2)(L): Permitting fees.
- 110(a)(2)(M): Consultation/participation by affected local entities.

² Stephen D. Page, Director, Office of Air Quality Planning and Standards. “Guidance on Infrastructure State Implementation Plan (SIP) Elements under Clean Air Act Sections 110(a)(1) and 110(a)(2).” Memorandum to EPA Air Division Directors, Regions 1 – 10, September 13, 2013.

The EPA's 2013 Guidance restated our interpretation that two elements are not governed by the three-year submission deadline in CAA section 110(a)(1) because SIPs incorporating necessary local nonattainment area controls are due on separate schedules, pursuant to CAA section 172 and the various pollutant-specific subparts 2 through 5 of part D. These are submissions required by: (i) CAA section 110(a)(2)(C), to the extent that subsection refers to a permit program as required in part D, title I of the CAA, and (ii) CAA section 110(a)(2)(I). As a result, this action does not address CAA section 110(a)(2)(C) with respect to nonattainment new source review (NSR) or CAA section 110(a)(2)(I). The EPA has also determined that the CAA section 110(a)(2)(J) provision on visibility is not triggered by a new NAAQS because the visibility requirements in part C, title I of the CAA are not changed by a new NAAQS.

III. EPA Approach to Review of Infrastructure Submissions

The EPA is proposing to approve Alaska's March 10, 2016, submission as meeting certain PM_{2.5} NAAQS infrastructure requirements. Our most recent action on an Alaska infrastructure submission was published on May 12, 2017 (82 FR 22081). In the preamble of the action, we published a discussion of the EPA's overall approach to review of these types of submissions. Please see our July 20, 2016, proposed rule for this discussion (81 FR 47103, at page 47104).

IV. EPA Evaluation

110(a)(2)(A): Emission limits and other control measures

CAA section 110(a)(2)(A) requires SIPs to include enforceable emission limits and other control measures, means or techniques (including economic incentives such as fees, marketable

permits, and auctions of emissions rights), as well as schedules and timetables for compliance, as may be necessary or appropriate to meet the applicable requirements of the CAA.

State submission: The submission cites regulations set forth at Alaska Administrative Code Title 18 *Environmental Conservation*, Chapter 50 *Air Quality Control* (18 AAC 50). The relevant regulations are listed below:

- 18 AAC 50.010: Ambient Air Quality Standards.
- 18 AAC 50.015: Air Quality Designations, Classifications, and Control Regions.
- 18 AAC 50.040: Federal Standards Adopted by Reference.
- 18 AAC 50.050: Incinerator Emission Standards.
- 18 AAC 50.055: Industrial Processes and Fuel Burning Equipment.
- 18 AAC 50.065: Open Burning.
- 18 AAC 50.070: Marine Vessel Visible Emission Standards.
- 18 AAC 50.075: Solid Fuel-Fired Heating Device Visible Emission Standards.
- 18 AAC 50.076: Solid Fuel-Fired Heating Device Fuel Requirements; Registration of Commercial Wood Sellers.
- 18 AAC 50.077: Standards for Wood-Fired Heating Devices.
- 18 AAC 50.301: Permit Continuity.
- 18 AAC 50.302: Construction Permits.
- 18 AAC 50.306: Prevention of Significant Deterioration (PSD) Permits.
- 18 AAC 50.345: Construction, Minor and Operating Permits: Standard Permit Conditions.

- 18 AAC 50.502: Minor Permits for Air Quality Protection.
- 18 AAC 50.508: Minor Permits Requested by the Owner or Operator.
- 18 AAC 50.540: Minor Permit: Application.
- 18 AAC 50.542: Minor Permit Review and Issuance.
- 18 AAC 50.544: Minor Permits: Content.
- 18 AAC 50.546: Minor Permits: Revisions.
- 18 AAC 50.560: General Minor Permits.

EPA analysis: Alaska regulates emissions of PM_{2.5} (and nitrogen oxides (NO_x) and sulfur dioxide (SO₂) as precursors to PM_{2.5}) through its SIP-approved major and minor new source review (NSR) permitting programs, and other rules described below. The EPA recently approved numerous revisions to the Alaska SIP, including updates to 18 AAC 50.010 *Ambient Air Quality Standards* to reflect the most recent NAAQS revisions – the 2012 PM_{2.5} and 2015 ozone NAAQS (82 FR 42457, September 8, 2017; 82 FR 40712, August 28, 2017). As a result, Alaska’s ambient air quality standards in 18 AAC 50.010 are up-to-date with current NAAQS.

Alaska has no areas designated nonattainment for the 2012 PM_{2.5} NAAQS. We note, however, that the EPA does not consider SIP requirements triggered by the nonattainment area mandates in part D, title I of the CAA to be governed by the submission deadline of CAA section 110(a)(1). Regulations and other control measures for purposes of attainment planning under part D, title I of the CAA are due on a different schedule than infrastructure SIPs.

Alaska’s major NSR permitting rules in 18 AAC Chapter 50, Article 3 for attainment and unclassifiable areas, generally rely on the federal PSD program regulations at 40 CFR 51.166

and 40 CFR 52.21, which are incorporated by reference into the Alaska SIP, to implement its SIP-approved PSD permitting program. The EPA most recently approved revisions to Alaska's PSD rules on August 28, 2017 (82 FR 40712). The current Alaska SIP-approved PSD program incorporates by reference specific regulations at 40 CFR 52.21 and 40 CFR 51.166 as of December 28, 2015.

Alaska regulates minor stationary sources of PM_{2.5} and precursors through its federally-approved minor NSR permitting program. Alaska's minor NSR rules in 18 AAC Chapter 50, Article 5 were originally approved into the SIP on July 5, 1983, and the state has made updates and revisions to the program since then. The EPA most recently approved substantive revisions to the Alaska minor NSR rules on September 19, 2014 (79 FR 56268) and August 28, 2017 (82 FR 40712).

In addition to permitting requirements, Alaska's SIP contains rules that limit particulate matter emissions. These controls include incinerator emission standards, emission limits for specific industrial processes and fuel burning equipment, open burning restrictions, visible emission limits on marine vessel emissions, and requirements for installing and operating solid fuel-fired devices. Therefore, we are proposing to approve the Alaska SIP as meeting the requirements of CAA section 110(a)(2)(A) for the 2012 PM_{2.5} NAAQS.

110(a)(2)(B): Ambient air quality monitoring/data system

CAA section 110(a)(2)(B) requires SIPs to include provisions to provide for the establishment and operation of ambient air quality monitors, collecting and analyzing ambient air quality data, and making these data available to the EPA upon request.

State submission: The submission references Alaska statutory and regulatory authority to conduct ambient air monitoring investigations. Alaska Statutes (AS) 46.03.020 *Powers of the department* paragraph (5) provides authority to undertake studies, inquiries, surveys, or analyses essential to the accomplishment of the purposes of ADEC. AS 46.14.180 *Monitoring* provides authority to require sources to monitor emissions and ambient air quality to demonstrate compliance with applicable permit program requirements. 18 AAC 50.201 *Ambient Air Quality Investigation* provides authority to require a source to do emissions testing, reduce emissions, and apply controls to sources.

The submission references ADEC's revised *Quality Assurance Project Plan for the State of Alaska Air Monitoring and Quality Assurance Program*, adopted by reference into the State Air Quality Control Plan at 18 AAC 50.030(4). Validated State & Local Air Monitoring Stations, and Special Purpose Monitoring ambient air quality monitoring data are verified, and then electronically reported to the EPA through the Air Quality System on a quarterly basis. The submission also references the adoption of the federal reference and interpretation methods for PM_{2.5}. These methods are used by ADEC in its ambient air quality monitoring program to determine compliance with the standards.

EPA analysis: A comprehensive air quality monitoring plan to meet CAA monitoring requirements was originally submitted by Alaska on January 18, 1980 (40 CFR 52.70) and approved by the EPA on April 15, 1981 (46 FR 21994). The plan includes statutory and regulatory authority to establish and operate an air quality monitoring network, including PM_{2.5} monitoring. Alaska's SIP-approved regulations in 18 AAC 50 Article 2 govern source-specific

monitoring and emissions testing for PM_{2.5} in accordance with federal reference methods. Alaska regularly assesses the adequacy of the state monitoring network and submits that assessment to the EPA for review. In practice, Alaska operates a comprehensive PM_{2.5} monitoring network, compiles and analyzes collected data, and submits the data to the EPA's Air Quality System on a quarterly basis. We are therefore proposing to approve the Alaska SIP as meeting the requirements of CAA section 110(a)(2)(B) for the 2012 PM_{2.5} NAAQS.

110(a)(2)(C): Program for enforcement of control measures

CAA section 110(a)(2)(C) requires states to include a program providing for enforcement of all SIP measures and the regulation of construction of new or modified stationary sources, including a program to meet PSD and nonattainment NSR requirements.

State submission: With respect to enforcement, the submission states that a violation of the prohibitions in the regulations above, or any permit condition, can result in civil actions (AS 46.03.760 *Civil action for pollution; damages*), administrative penalties (AS 46.03.761 *Administrative penalties*), or criminal penalties (AS 46.03.790 *Criminal penalties*). In addition, the submission references compliance order and enforcement proceeding provisions found at 18 AAC Chapter 95 *Administrative Enforcement*.

With respect to construction of new and modified stationary sources, the submission points to ADEC's statutory authority established in AS 46.14 *Air Quality Control*, Article 01 *General Regulations and Classifications* and Article 02 *Emission Control Permit Program*. The submission states that ADEC's PSD/NSR programs were originally approved by the EPA on February 16, 1995 (60 FR 8943), and revisions to the program were approved in 2007, 2011, and

2015. Alaska's regulations for construction of new and modified major sources in attainment and unclassifiable areas (PSD) are found at 18 AAC 50.306, and those for nonattainment areas (nonattainment NSR) are found at 18 AAC 50.311. Minor stationary sources are permitted via minor NSR regulations in 18 AAC 50 Article 5.

EPA analysis: We are proposing to find that Alaska statute provides ADEC authority to enforce air quality regulations, permits, and orders promulgated pursuant to AS 46.03 and AS 46.14. ADEC staffs and maintains an enforcement program to ensure compliance with SIP requirements. ADEC has emergency order authority when there is an imminent or present danger to health or welfare or potential for irreversible or irreparable damage to natural resources or the environment. Enforcement cases may be referred to the State Department of Law. Therefore, we are proposing to approve the Alaska SIP as meeting the requirements of CAA section 110(a)(2)(C) related to enforcement for the 2012 PM_{2.5} NAAQS.

To generally meet the requirements of CAA section 110(a)(2)(C) for regulation of construction of new or modified stationary sources, states are required to have PSD, nonattainment NSR, and minor NSR permitting programs adequate to implement the 2012 PM_{2.5} NAAQS. As explained above, we are not evaluating nonattainment related provisions, such as the nonattainment NSR program required by part D, title I of the CAA.

For the PSD portion of element 110(a)(2)(C) (as well as for the PSD portions of elements (D)(i)(II) and (J)) the EPA interprets the CAA to require an infrastructure submission that demonstrates a complete PSD permitting program meeting current requirements for all regulated NSR pollutants. Alaska has a SIP-approved PSD program that incorporates by reference certain

federal PSD program requirements at 40 CFR 52.21 and 40 CFR 51.166. We most recently approved updates to the program on August 28, 2017 (82 FR 40712). The Alaska PSD rules meet current requirements for all regulated NSR pollutants – we are therefore proposing to approve element 110(a)(2)(C) for PSD.

Turning to the minor NSR requirement, the EPA originally approved Alaska's minor NSR program into the SIP on July 5, 1983 as meeting federal minor NSR requirements at 40 CFR 51.160 through 40 CFR 51.164 (48 FR 30623). Over the years, we have approved revisions to the program as consistent with the CAA and federal minor NSR requirements, most recently on August 28, 2017 (82 FR 40712). We have determined that the program regulates construction of new and modified minor sources for purposes of the 2012 PM_{2.5} NAAQS consistent with CAA requirements. Therefore, we are proposing to approve the Alaska SIP as meeting the requirements of CAA section 110(a)(2)(C) for the 2012 PM_{2.5} NAAQS.

110(a)(2)(D)(i): Interstate transport

CAA section 110(a)(2)(D)(i) requires state SIPs to include provisions prohibiting any source or other type of emissions activity in one state from contributing significantly to nonattainment, or interfering with maintenance of the NAAQS in another state (CAA section 110(a)(2)(D)(i)(I)). Further, this section requires state SIPs to include provisions prohibiting any source or other type of emissions activity in one state from interfering with measures required to prevent significant deterioration (PSD) of air quality, or from interfering with measures required to protect visibility (i.e. measures to address regional haze) in any state (CAA section 110(a)(2)(D)(i)(II)).

State submission: Alaska's March 10, 2016, submission addresses 110(a)(2)(D)(i)(I) for the 2012 PM_{2.5} NAAQS, however, we intend to evaluate the requirement in a separate, future action. For purposes of CAA section 110(a)(2)(D)(i)(II), the submission references the Alaska SIP-approved PSD program and the Alaska Regional Haze Plan.

EPA analysis: CAA section 110(a)(2)(D)(i)(II) requires state SIPs to contain adequate provisions prohibiting emissions which will interfere with any other state's required measures to prevent significant deterioration (PSD) of its air quality (prong 3), and adequate provisions prohibiting emissions which will interfere with any other state's required measures to protect visibility (prong 4). As noted above for section 110(a)(2)(C), Alaska's SIP-approved PSD program, last revised on August 28, 2017, incorporates by reference current federal PSD requirements (82 FR 40712). We are therefore proposing to approve the Alaska SIP as meeting the requirements of CAA section 110(a)(2)(D)(i)(II) with respect to PSD (prong 3) for the 2012 PM_{2.5} NAAQS.

To address whether emissions from sources in Alaska interfere with any other state's required measures to protect visibility, the submission references the Alaska regional haze SIP, submitted on March 29, 2011, and approved by the EPA on February 14, 2013 (78 FR 10546). The EPA believes, as noted in the 2013 Guidance, that with respect to the 110(a)(2)(D)(i)(II), where a state's regional haze SIP has been approved as meeting all current obligations, a state may rely upon those provisions in support of its demonstration for the visibility sub-element. Because the Alaska regional haze SIP was found to meet federal requirements, we are proposing to approve the Alaska SIP as meeting the requirements of CAA section 110(a)(2)(D)(i)(II) as it

applies to visibility for the 2012 PM_{2.5} NAAQS (prong 4).

110(a)(2)(D)(ii): Interstate and International transport provisions

CAA section 110(a)(2)(D)(ii) requires SIPs to include provisions ensuring compliance with the applicable requirements of CAA sections 126 and 115 (relating to interstate and international pollution abatement). CAA section 126 requires notification to neighboring states of potential impacts from a new or modified major stationary source, and specifies how a state may petition the EPA when a major source or group of stationary sources in a state is thought to contribute to certain pollution problems in another state. CAA section 115 governs the process for addressing air pollutants emitted in the United States that cause or contribute to air pollution that may reasonably be anticipated to endanger public health or welfare in a foreign country.

State submission: The submission references Alaska's SIP-approved PSD program and certifies that Alaska has no pending obligations under CAA section 115 or 126.

EPA analysis: At 18 AAC 50.306(b), Alaska's PSD program incorporates by reference the general provisions of 40 CFR 51.166(q)(2) to describe the public participation procedures for PSD permits, including requiring notice to states whose lands may be affected by the emissions of sources subject to PSD. As a result, Alaska's PSD regulations provide for notice consistent with CAA section 126(a) and federal requirements. We confirm that Alaska has no pending obligations under section 115 or 126(b) of the CAA. Therefore, we are proposing to approve the Alaska SIP as meeting the requirements of CAA section 110(a)(2)(D)(ii) for the 2012 PM_{2.5} NAAQS.

110(a)(2)(E): Adequate resources

CAA section 110(a)(2)(E) requires each state to provide (i) necessary assurances that the state will have adequate personnel, funding, and authority under state law to carry out the SIP (and is not prohibited by any provision of federal or state law from carrying out the SIP or portion thereof), (ii) requirements that the state comply with the requirements respecting state boards under CAA section 128 and (iii) necessary assurances that, where the state has relied on a local or regional government, agency, or instrumentality for the implementation of any SIP provision, the state has responsibility for ensuring adequate implementation of such SIP provision.

State submission: The submission asserts that ADEC maintains adequate personnel, funding, and authority to implement the SIP. The submission refers to AS 46.14.030 *State Air Quality Control Plan* which provides ADEC statutory authority to act for the state and adopt regulations necessary to implement the state air plan. The submission also references 18 AAC 50.030 *State Air Quality Control Plan* which provides regulatory authority to implement and enforce the SIP.

With respect to CAA section 110(a)(2)(E)(ii), Alaska's regulations on conflict of interest are found in Title 2 *Administration*, Chapter 50 *Alaska Public Offices Commission: Conflict of Interest, Campaign Disclosure, Legislative Financial Disclosure, and Regulations of Lobbying* (2 AAC 50.010 – 2 AAC 50.920). Regulations concerning financial disclosure are found in Title 2, Chapter 50, Article 1 – *Public Official Financial Disclosure*. These regulations were previously adopted and approved into the SIP. There are no state air quality boards in Alaska. The ADEC commissioner, however, as an appointed official and the head of an executive

agency, is required to file a financial disclosure statement annually with the Alaska Public Offices Commission (APOC). These disclosures are publically available through APOC's Anchorage office.

With respect to CAA section 110(a)(2)(E)(iii) and assurances that the state has responsibility for ensuring adequate implementation of the plan where the state has relied on local or regional government agencies, the submission references statutory authority and requirements for establishing local air pollution control programs found at AS 46.14.400 *Local air quality control programs*.

The submission also states that ADEC provides technical assistance and regulatory oversight to the Municipality of Anchorage, Fairbanks North Star Borough, and other local jurisdictions to ensure that the State Air Quality Control Plan and SIP objectives are satisfactorily carried out. ADEC has a Memorandum of Understanding with the Municipality of Anchorage and Fairbanks North Star Borough that allows the local entities to operate air quality control programs in their respective jurisdictions. The South Central Clean Air Authority has been established to aid the Municipality of Anchorage and the Matanuska-Susitna Borough in pursuing joint efforts to control emissions and improve air quality in the air-shed common to the two jurisdictions.

EPA analysis: We are proposing to find that the Alaska SIP meets the adequate personnel, funding and authority requirements of CAA section 110(a)(2)(E)(i). Alaska receives sections 103 and 105 grant funds from the EPA and provides matching funds necessary to carry out SIP requirements. For purposes of CAA section 110(a)(2)(E)(ii), we previously approved

Alaska's conflict of interest disclosure and ethics regulations as meeting the requirements of CAA section 128 on October 22, 2012 (77 FR 64427). Finally, we are proposing to find that Alaska has provided necessary assurances that, where the state has relied on a local or regional government, agency, or instrumentality for the implementation of any SIP provision, the state has responsibility for ensuring adequate implementation of the SIP as required by CAA section 110(a)(2)(E)(iii). Therefore, we are proposing to approve the Alaska SIP as meeting the requirements of CAA section 110(a)(2)(E) for the 2012 PM_{2.5} NAAQS.

110(a)(2)(F): Stationary source monitoring system

CAA section 110(a)(2)(F) requires (i) the installation, maintenance, and replacement of equipment, and the implementation of other necessary steps, by owners or operators of stationary sources to monitor emissions from such sources, (ii) periodic reports on the nature and amounts of emissions and emissions-related data from such sources, and (iii) correlation of such reports by the state agency with any emission limitations or standards established pursuant to the CAA, which reports shall be available at reasonable times for public inspection.

State submission: The submission states that ADEC has general statutory authority in AS 46.14 *Air Quality Control* to regulate stationary sources via an air permitting program which includes permit reporting requirements, completeness determinations, administrative actions, and stack source monitoring requirements. The submission states ADEC has regulatory authority to determine compliance with these statutes via information requests (18 AAC 50.200) and ambient air quality investigations (18 AAC 50.201). Monitoring protocols and test methods for stationary sources are adopted by reference, including the federal reference and interpretation methods for

PM_{2.5}. The submission also references the SIP-approved Alaska PSD program. Ambient air quality and meteorological data that are collected for PSD purposes by stationary sources are reported to ADEC on a quarterly and annual basis.

EPA analysis: The Alaska SIP establishes compliance requirements for sources subject to major and minor source permitting to monitor emissions, keep and report records, and collect ambient air monitoring data. 18 AAC 50.200 *Information Requests* provides ADEC authority to issue information requests to an owner, operator, or permittee for purposes of ascertaining compliance. 18 AAC 50.201 *Ambient Air Quality Investigations* provides authority to require an owner, operator, or permittee to evaluate the effect emissions from the source have on ambient air quality. In addition, 18 AAC 50.306 *Prevention of Significant Deterioration Permits* and 18 AAC 50.544 *Minor Permits: Content* provide for establishing permit conditions to require the permittee to install, use and maintain monitoring equipment, sample emissions, provide source test reports, monitoring data, emissions data, and information from analysis, keep records and make periodic reports on process operations and emissions. This information is made available to the public through public processes outlined in these SIP-approved rules.

Additionally, states are required to submit emissions data to the EPA for purposes of the National Emissions Inventory (NEI). The NEI is the EPA's central repository for air emissions data. All states are required to submit a comprehensive emissions inventory every three years and report emissions for certain larger sources annually through the EPA's online Emissions Inventory System. As required, Alaska reports emissions data for the six criteria pollutants and their associated precursors – nitrogen oxides, sulfur dioxide, ammonia, lead, carbon monoxide,

particulate matter, and volatile organic compounds. The EPA compiles the emissions data, supplementing it where necessary, and releases it to the general public through the website <https://www.epa.gov/air-emissions-inventories>. Based on the above analysis, we are proposing to approve the Alaska SIP as meeting the requirements of CAA section 110(a)(2)(F) for the 2012 PM_{2.5} NAAQS.

110(a)(2)(G): Emergency episodes

CAA section 110(a)(2)(G) requires states to provide for authority to address activities causing imminent and substantial endangerment to public health, including contingency plans to implement the emergency episode provisions in their SIPs.

State submission: We note that Alaska's submission addresses not only the 2012 PM_{2.5} NAAQS for this element, but also the 1997 and 2006 PM_{2.5} NAAQS. Alaska cites statutory authority including AS 46.03.820 *Emergency powers* which provides ADEC with emergency order authority where there is an imminent or present danger to the health or welfare of the people of the state or would result in or be likely to result in irreversible or irreparable damage to the natural resources or environment. The submission references 18 AAC 50.246 *Air Quality Episodes and Advisories for PM_{2.5}* which authorizes ADEC to declare an air alert, air warning, or air advisory to notify the public and prescribe and publicize curtailment action, including restrictions on open burning under 18 AAC 50.065 and limits on visible emissions from solid fuel-fired heating devices under 18 AAC 50.075. The submission states that ADEC has also worked with the Fairbanks North Star Borough (FNSB) to develop an emergency episode plan

for PM_{2.5} applicable in the FNSB area. This plan was adopted into the state plan at 18 AAC 50.030.

EPA analysis: Section 303 of the CAA provides authority to the EPA Administrator to restrain any source from causing or contributing to emissions which present an “imminent and substantial endangerment to public health or welfare, or the environment.” The EPA finds that AS 46.03.820 *Emergency Powers* provides emergency order authority comparable to CAA Section 303. We also find that Alaska’s emergency episode rule at 18 AAC 50.246 *Air Quality Episodes and Advisories for PM_{2.5}*, in conjunction with 18 AAC 50.065 *Open Burning* and 18 AAC 50.075 *Solid Fuel-Fired Device Visible Emission Standards*, most recently approved by the EPA on September 8, 2017 (82 FR 40712), are consistent with the requirements of 40 CFR part 51 subpart H for PM_{2.5} (prevention of air pollution emergency episodes, sections 51.150 through 51.153). Based on the foregoing, we are proposing to approve the Alaska SIP as meeting the requirements of CAA section 110(a)(2)(G) for the 1997, 2006, and 2012 PM_{2.5} NAAQS.

110(a)(2)(H): Future SIP Revisions

CAA section 110(a)(2)(H) requires that SIPs provide for revision of the plan (i) from time to time as may be necessary to take account of revisions of a national primary or secondary ambient air quality standard or the availability of improved or more expeditious methods of attaining the standard, and (ii), except as provided in paragraph 110(a)(3)(C), whenever the Administrator finds that the SIP is substantially inadequate to attain the NAAQS which it implements or to otherwise comply with any additional requirements under the CAA.

State submission: The submission refers to statutory authority to adopt regulations in

order to implement the CAA and the state air quality control program at AS 46.03.020(10)(A) *Powers of the Department* and AS 46.14.010(a) *Emission Control Regulations*.

EPA analysis: As cited above, the Alaska SIP provides for revisions, and in practice, Alaska regularly submits SIP revisions to the EPA to take into account changes to the NAAQS and other requirements. We have taken action on revisions to the Alaska SIP on many occasions in the past, most recently on September 8, 2017 (82 FR 42457), August 28, 2017 (82 FR 40712), May 19, 2016 (81 FR 31511), March 18, 2015 (80 FR 14038), and September 19, 2014 (79 FR 56268). We are proposing to approve the Alaska SIP as meeting the requirements of CAA section 110(a)(2)(H) for the 2012 PM_{2.5} NAAQS.

110(a)(2)(I): Nonattainment area plan revision under part D

EPA analysis: There are two elements identified in CAA section 110(a)(2) not governed by the three-year submission deadline of CAA section 110(a)(1), because SIPs incorporating necessary local nonattainment area controls are due on a different timeline, pursuant to section 172 and the various pollutant specific subparts 2 through 5 of part D. As a result, this action does not address CAA section 110(a)(2)(C) with respect to nonattainment NSR or CAA section 110(a)(2)(I).

110(a)(2)(J): Consultation with government officials

CAA section 110(a)(2)(J) requires states to provide a process for consultation with local governments and federal land managers with respect to NAAQS implementation requirements pursuant to section 121. CAA section 110(a)(2)(J) further requires states to notify the public if NAAQS are exceeded in an area and to enhance public awareness of measures that can be taken

to prevent exceedances. Lastly, CAA section 110(a)(2)(J) requires states to meet applicable requirements of part C, title I of the CAA related to prevention of significant deterioration and visibility protection.

State submission: The submission refers to statutory authority to consult and cooperate with officials of local governments, state and federal agencies, and non-profit groups found at AS 46.030.020 *Powers of the department* paragraphs (3) and (8). The submission states that municipalities and local air quality districts seeking approval for a local air quality control program shall enter into a cooperative agreement with ADEC according to AS 46.14.400 *Local air quality control programs*, paragraph (d). ADEC can adopt new CAA regulations only after a public hearing as per AS 46.14.010 *Emission control regulations*, paragraph (a). In addition, the submission notes that public notice and public hearing regulations for SIP submission and air quality discharge permits are found at 18 AAC 15.050 and 18 AAC 15.060. Finally, the submission also references the SIP-approved Alaska PSD program.

EPA analysis: The EPA finds that the Alaska SIP, including the Alaska rules for major source permitting, contains provisions for consulting with government officials as specified in CAA section 121. Alaska's PSD program provides opportunity and procedures for public comment and notice to appropriate federal, state and local agencies. We most recently approved updates to the Alaska PSD program on August 28, 2017 (82 FR 40712). In addition, we most recently approved the Alaska rules that define transportation conformity consultation on September 8, 2015 (80 FR 53735) and regional haze interagency planning on February 14, 2013, (78 FR 10546).

ADEC routinely coordinates with local governments, states, federal land managers and other stakeholders on air quality issues including transportation conformity and regional haze, and provides notice to appropriate agencies related to permitting actions. Alaska regularly participates in regional planning processes including the Western Regional Air Partnership, which is a voluntary partnership of states, tribes, federal land managers, local air agencies and the EPA, whose purpose is to understand current and evolving regional air quality issues in the West. Therefore, we are proposing to approve the Alaska SIP as meeting the requirements of CAA section 110(a)(2)(J) for consultation with government officials for the 2012 PM_{2.5} NAAQS.

Section 110(a)(2)(J) also requires the public to be notified if NAAQS are exceeded in an area and to enhance public awareness of measures that can be taken to prevent exceedances. ADEC is a partner in the EPA's AIRNOW and Enviroflash Air Quality Alert programs, which provide air quality information to the public for five major air pollutants regulated by the CAA: ground-level ozone, particulate matter, carbon monoxide, sulfur dioxide, and nitrogen dioxide. Alaska also provides real-time air monitoring information to the public on the ADEC air quality website, in addition to air advisory information. During the summer months, the Fairbanks North Star Borough prepares a weekly Air Quality forecast for the Fairbanks area on its website. We are proposing to approve the Alaska SIP as meeting the requirements of CAA section 110(a)(2)(J) for public notification for the 2012 PM_{2.5} NAAQS.

Turning to the requirement in CAA section 110(a)(2)(J) that the SIP meet the applicable requirements of part C of title I of the CAA, we have evaluated this requirement in the context of CAA section 110(a)(2)(C) and permitting. The EPA most recently approved updates to Alaska's

PSD program on August 28, 2017 (82 FR 40712). As discussed in section 110(a)(2)(C), the program meets current federal requirements. Therefore, we are proposing to approve the Alaska SIP as meeting the requirements of CAA section 110(a)(2)(J) for PSD for the 2012 PM_{2.5} NAAQS.

With respect to visibility protection under element (J), the EPA recognizes that states are subject to visibility and regional haze program requirements under part C of the CAA. In the event of the establishment of a new NAAQS, however, the visibility and regional haze program requirements under part C do not change. Thus we find that there is no new applicable requirement related to visibility triggered under CAA section 110(a)(2)(J) when a new NAAQS becomes effective. Based on the analysis above, we are proposing to approve the Alaska SIP as meeting the requirements of CAA section 110(a)(2)(J) for the 2012 PM_{2.5} NAAQS.

110(a)(2)(K): Air quality modeling/data

CAA section 110(a)(2)(K) requires that SIPs provide for (i) the performance of air quality modeling as the Administrator may prescribe for the purpose of predicting the effect on ambient air quality of any emissions of any air pollutant for which the Administrator has established a NAAQS, and (ii) the submission, upon request, of data related to such air quality modeling to the Administrator.

State submission: The submission states that air quality modeling is regulated under 18 AAC 50.215(b) *Ambient Air Quality Analysis Methods*. Estimates of ambient concentrations and visibility impairment must be based on applicable air quality models, databases, and other requirements specified in the EPA's Guideline on Air Quality Models are adopted by reference

in 18 AAC 50.040 *Federal Standards Adopted by Reference*. Baseline dates and maximum allowable increases are found in Table 2 and Table 3, respectively, at 18 AAC 50.020 *Baseline Dates and Maximum Allowable Increases*.

EPA analysis: On August 28, 2017, we approved revisions to 18 AAC 50.215 *Ambient Air Quality Analysis Methods* and 18 AAC 50.040 *Federal Standards Adopted by Reference* (82 FR 40712). 18 AAC 50.040, at paragraph (f), incorporates by reference the EPA regulations at 40 CFR part 51, Appendix W *Guidelines on Air Quality Models* revised as of July 1, 2015. Therefore, we are proposing to approve the Alaska SIP as meeting the requirements of CAA section 110(a)(2)(K) for the 2012 PM_{2.5} NAAQS.

110(a)(2)(L): Permitting fees

CAA section 110(a)(2)(L) directs SIPs to require each major stationary source to pay permitting fees to cover the cost of reviewing, approving, implementing and enforcing a permit.

State submission: The submission states that ADEC's statutory authority to assess and collect permit fees is established in AS 46.14.240 *Permit Administration Fees* and AS 46.14.250 *Emission Fees*. The permit fees for stationary sources are assessed and collected by the Air Permits Program according to 18 AAC 50, Article 4. ADEC is required to evaluate emission fee rates at least every four years and provide a written evaluation of the findings (AS 46.14.250(g); 18 AAC 50.410).

EPA analysis: The EPA fully-approved Alaska's title V program on July 26, 2001 (66 FR 38940). While Alaska's operating permit program is not formally approved into the SIP, it is a legal mechanism the state can use to ensure that ADEC has sufficient resources to support the air

program, consistent with the requirements of the SIP. Before the EPA can grant full title V approval, a state must demonstrate the ability to collect adequate fees. The Alaska title V program included a demonstration the state will collect a fee from title V sources above the presumptive minimum in accordance with 40 CFR 70.9(b)(2)(i).

In addition, Alaska SIP-approved regulations at 18 AAC 50.306(d)(2) and 18 AAC 50.311(d)(2) require fees for purposes of major new source permitting as specified in 18 AAC 50.400 through 18 AAC 50.499. Therefore, we are proposing to conclude that Alaska has satisfied the requirements of CAA section 110(a)(2)(L) for the 2012 PM_{2.5} NAAQS.

110(a)(2)(M): Consultation/participation by affected local entities

CAA section 110(a)(2)(M) requires states to provide for consultation and participation in SIP development by local political subdivisions affected by the SIP.

State submission: The submission asserts ADEC has authority to consult and cooperate with officials and representatives of any organization in the state; and persons, organization, and groups, public and private using, served by, interested in, or concerned with the environment of the state. The submission refers to AS 46.030.020 *Powers of the department* paragraphs (3) and (8) which provide authority to ADEC to consult and cooperate with affected state and local entities.

EPA analysis: The EPA finds that the Alaska provisions cited above provide for local and regional authorities to participate and consult in the SIP development process. Therefore, we are proposing to approve the Alaska SIP as meeting the requirements of CAA section 110(a)(2)(M) for the 2012 PM_{2.5} NAAQS.

V. Proposed Action

We are proposing to approve the Alaska SIP as meeting the following CAA section 110(a)(2) infrastructure elements for the 2012 PM_{2.5} NAAQS: (A), (B), (C), (D)(i)(II), (D)(ii), (E), (F), (H), (J), (K), (L), and (M). We are also proposing to approve the Alaska SIP as meeting CAA section 110(a)(2)(G) for the 1997, 2006, and 2012 PM_{2.5} NAAQS.

VI. Statutory and Executive Orders Review

Under the CAA, the Administrator is required to approve a SIP submission that complies with the provisions of the CAA and applicable federal regulations. 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, the EPA's role is to approve state choices, provided that they meet the criteria of the CAA. Accordingly, this proposed action merely approves state law as meeting federal requirements and does not impose additional requirements beyond those imposed by state law. For that reason, this proposed action:

- Is not a “significant regulatory action” subject to review by the Office of Management and Budget under Executive Orders 12866 (58 FR 51735, October 4, 1993) and 13563 (76 FR 3821, January 21, 2011);
- Is not an Executive Order 13771 (82 FR 9339, February 2, 2017) regulatory action because SIP approvals are exempted under Executive Order 12866;
- Does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- Is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);

- Does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Public Law 104-4);
- Does not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- Is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- Is not subject to requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because it does not involve technical standards; and
- Does not provide the EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

In addition, the SIP is not approved to apply on any Indian reservation land or in any other area where the EPA or an Indian tribe has demonstrated that a tribe has jurisdiction. In those areas of Indian country, the rule does not have tribal implications and will not impose substantial direct costs on tribal governments or preempt tribal law as specified by Executive Order 13175 (65 FR 67249, November 9, 2000).

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Intergovernmental relations, Lead, Nitrogen dioxide, Ozone, Particulate matter, Reporting and recordkeeping requirements, Sulfur oxides, Volatile organic compounds.

Authority: 42 U.S.C. 7401 *et seq.*

Dated: January 11, 2018.

Chris Hladick,
Regional Administrator,
Region 10.

[FR Doc. 2018-01165 Filed: 1/22/2018 8:45 am; Publication Date: 1/23/2018]